



**Billing Code 4310–55**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R4–ES–2013–N076]**

**[FXES11130400000EA–123–FF04EF1000]**

**Endangered and Threatened Wildlife and Plants; Receipt of Application for Renewal of Incidental Take Permit; Availability of Proposed Low-Effect Habitat Conservation Plan; Eber Cove, LLC, Brevard County, FL**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the Fish and Wildlife Service (Service), have received an application from Eber Cove, LLC (applicant), for a 5-year renewal of incidental take permit (ITP) TE151089–0 under the Endangered Species Act of 1973, as amended (Act). We request public comment on the permit application and accompanying proposed habitat conservation plan (HCP), as well as on our preliminary determination that the plan qualifies as low effect under the National Environmental Policy Act (NEPA). To make this determination, we used our environmental

action statement and low-effect screening form, which are also available for review.

**DATES:** To ensure consideration, please send your written comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** If you wish to review the application and HCP, you may request documents by email, U.S. mail, or phone (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Send your comments or requests by any one of the following methods.

*Email:* northflorida@fws.gov. Use “Attn: Permit number TE151089–1” as your message subject line.

*Fax:* Dawn Jennings, Acting Field Supervisor, 904–731–3045, Attn.: Permit number TE151089–1.

*U.S. mail:* Dawn Jennings, Acting Field Supervisor, Jacksonville Ecological Services Field Office, Attn: Permit number TE151089–1, U.S. Fish and Wildlife Service, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256.

*In-person drop-off:* You may drop off information during regular business hours at the above office address.

**FOR FURTHER INFORMATION CONTACT:** Erin M. Gawera, telephone: 904–731–3121; email: *erin\_gawera@fws.gov*.

**SUPPLEMENTARY INFORMATION:**

## **Background**

Section 9 of the Act (16 U.S.C. 1531 et seq.) and our implementing Federal regulations in the Code of Federal Regulations (CFR) at 50 CFR 17 prohibit the “take” of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532). However, under limited circumstances, we issue permits to authorize incidental take—i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. The Act’s take prohibitions do not apply to federally listed plants on private lands unless such take would violate State law. In addition to meeting other criteria, an incidental take permit’s proposed actions must not jeopardize the existence of federally listed fish, wildlife, or plants.

## **Applicant’s Proposal**

The applicant has been approved for take of approximately 1.55 acres (ac) of Florida scrub-jay (*Aphelocoma coerulescens*)—occupied habitat incidental to construction of a single-family-home subdivision. The 28.25-ac project is located on Parcel #28-37-17-00-00753.0-0000.00 and #28-37-17-00-00769.0-0000.00, within Section 17, Township 28 South, Range 37 East, Brevard County, Florida. The applicant’s HCP describes the mitigation and minimization measures the applicant proposes to address the effects of the project to the Florida scrub-jay.

## **Our Preliminary Determination**

We have determined that the applicant's proposal, including the proposed mitigation and minimization measures, would have minor or negligible effects on the species covered in the HCP. Therefore, we determined that the ITP is a low-effect project and qualifies for categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1). A low-effect HCP is one involving (1) Minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources.

## **Next Steps**

We will evaluate the HCP and comments we receive to determine whether the ITP application meets the requirements of section 10(a) of the Act (16 U.S.C. 1531 et seq.). If we determine that the application meets these requirements, we will issue the ITP. We will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue the ITP. If the requirements are met, we will issue the permit to the applicant.

## **Public Comments**

If you wish to comment on the permit application, HCP, and associated documents, you may submit comments by any one of the methods in **ADDRESSES**.

## **Public Availability of Comments**

Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority**

We provide this notice under Section 10 of the Act and NEPA regulations (40 CFR 1506.6).

**Dated:** **March 27, 2013**

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**Dawn Jennings,  
Acting Field Supervisor,  
Jacksonville Field Office,  
Southeast Region.**

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